

CITY OF CORAL GABLES, FLORIDA

ORDINANCE NO. 2021-22

AN ORDINANCE OF THE CITY COMMISSION AMENDING CHAPTER 34-NUISANCES. ARTICLE VI “NOISE,” SECTION 34-170 “EXEMPTIONS” OF THE CITY CODE TO CREATE AN EXEMPTION FOR OUTDOOR LIVE AMPLIFIED MUSIC ON PRIVATE PROPERTY IN THE CENTRAL BUSINESS DISTRICT, SUBJECT TO APPROVAL OF A PERMIT AND CONDITIONS, PROVIDING FOR A REPEALER PROVISION, SEVERABILITY CLAUSE, CODIFICATION, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Code Sec. 34-169 includes certain enumerated acts that are declared to be “loud, excessive, unnecessary or unusual noises in violation of [the City’s noise regulations]” (“prohibited acts”); and

WHEREAS, pursuant to Sec. 34-169(2), “the making of amplified sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants with louder volume than is necessary for convenient hearing for the person who is in the room, vehicle, chamber, or outdoor private property in which such machine or device is operated and who are voluntary listeners thereto” and, more specifically, the making of such sounds during certain hours (between 11:p.m. and 7:00 a.m. the following day on Sunday, Monday, Tuesday, Wednesday and Thursday or between 12:00 midnight and 7:00 a.m. the following day on Friday and Saturday) if plainly audible at a distance of 100 feet from the source of the noise shall be prima facie evidence of a violation;” and

WHEREAS, pursuant to such provisions, a restaurant establishment is prohibited from having outdoor live amplified music performances on its private property unless the sound levels are so low as to not constitute a prohibited act; and

WHEREAS, an exception is available under Sec. 34-169(2) for the making of amplified sound in connection with a special event or parade, in which case, the sound levels shall not exceed 75dBA for special events and parades adjacent to residential areas or 85 dBA for special events and parades not adjacent to residential areas; and

WHEREAS, while a restaurant establishment may be able to proceed under the special events process for outdoor live amplified music performances, the special events process involves an application fee and fees for city services including but not limited to charges for police and fire protection services, code enforcement services, electrical service and costs and the process itself may be burdensome and cost-prohibitive for restaurants that would like to offer outdoor live amplified music on its private property on an ongoing basis; and

WHEREAS, the City Commission wishes to allow restaurant establishments located in the Central Business District, with active outdoor dining permits, to provide outdoor live amplified music on their private property, subject to obtaining a permit from the City Manager or his or her designee and subject to certain additional conditions, including maximum sound levels and hours of operation.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF CORAL GABLES, FLORIDA:

SECTION 1. That the foregoing “Whereas” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon the adoption hereof.

SECTION 2. The Code of Ordinances of the City of Coral Gables is hereby amended as follows^a:

Chapter 34 – NUISANCES

ARTICLE VI. – NOISE

Section 34-170. – Exemptions.

The terms and prohibitions of this article shall not be applied to or enforced against:

- (1) Any motor vehicle, boat or other vehicle of the city, the county or the state or licensed public utility vehicle within the city while engaged in necessary emergency or public business.
- (2) Emergency work of public service utilities by or on behalf of the city, the county, or the state, or performance of such work during the night if the public welfare and convenience renders it impossible to perform such work during the day.
- (3) Reasonable noise generated for the purpose of alerting persons to the existence of an emergency or to other dangers; reasonable noise generated in the performance of reasonable actions taken in response to an emergency or danger, including, but not limited to, the operation of emergency backup energy generators; and reasonable noise generated in the testing of devices used for purposes of alerting persons to the existence of an emergency.
- (4) Sanitation operations which include the unloading, emptying or collection of any waste or recyclable container, provided that that operation is conducted between the hours of 7:00 a.m. and 10:00 p.m.
- (5) Noise generated by any aircraft or generated in connection with the operation of any airport.

^a Deletions are indicated by ~~strike through~~. Insertions are indicated by underline.

(6) Noise generated from igniting fireworks which comply with [section 42-30](#).

(7) Outdoor live amplified music on private property at the ground-level located in the Central Business District, subject to the following conditions:

- (a) The establishment must have a permit for outdoor live amplified music approved by the city manager (or his or her designee) after having submitted a plan indicating the location where the outdoor live amplified music will be performed and any noise attenuation that will be implemented by the establishment. Outdoor live amplified music permit may be issued only to establishments with active outdoor dining permits. The city manager may, in his or her discretion, revoke or amend the permit for outdoor live amplified music of any establishment, following both verbal and written warnings due to violations of any of the conditions of the permit or of this subsection. Revocation or amendment of an outdoor live amplified music permit under this subsection may be appealed by the holder of the permit, in writing, to the city clerk within fourteen (14) days of the written revocation of the permit. The city manager or his or her designee shall have five (5) days to respond in writing. A special magistrate appointed by the city will promptly review the filings and will render a written order.
- (b) The “outdoor live amplified music” shall consist only of vocal and instrumental music that is performed live only and may be amplified through the use of loudspeakers.
- (c) The outdoor live amplified music event must be performed completely within the private property of a single establishment located in the Central Business District.
- (d) At no time shall the total occupancy for the private establishment be exceeded.
- (e) The outdoor live amplified music shall only be allowed on Fridays between the hours of 5:00 p.m. and 11:00 p.m.; on Saturdays between the hours of noon and 11:00 p.m.; and on Sundays between the hours of noon and 9:00 p.m. If a holiday, as defined in Section 1-2 falls on or is observed by the city on a Monday, then the outdoor live amplified music shall be allowed on the preceding Sunday until 11:00 p.m.
- (f) No platforms, stages, or other temporary structures or any equipment that would otherwise require a building permit, shall be erected or installed for purposes of performing the outdoor live amplified music.
- (g) The performance of the outdoor live amplified music shall not constitute a “special event” as defined in Sec 62-254 of the City Code.

- (h) The permit issued by the City Manager (or his or her designee) after review of the establishment's plan and proposed noise attenuation, shall set the maximum sound level for the outdoor live amplified music and the distance at which the sound level shall be measured, but in no case shall the sound level of the outdoor live amplified music exceed 85 dBA when measured with a sound level meter manufactured according to standards prescribed by the American National Standards Institute, one-hundred (100) feet from the real property line of the private establishment at which the outdoor live amplified music is being performed.

- (i) To the extent that any other regulation of the City that applies to establishments along Miracle Mile or Giralda Plaza is in conflict with these provisions, such regulation shall govern as to those establishments along Miracle Mile or Giralda Plaza.

SECTION 3. The Commission directs City staff to study and evaluate the effects of this Ordinance for a six-month period and present a report to the City Commission in January 2022 providing feedback and describing the impact of this Ordinance on the neighboring areas so that the Commission can address any concerns and make any necessary changes to this Ordinance.

SECTION 4. All ordinances or parts of ordinances inconsistent or in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 5. If any section, part of section, paragraph, clause, phrase, or word of this Ordinance is declared invalid, the remaining provisions of this Ordinance shall not be affected.

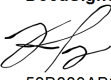
SECTION 6. It is the intention of the City Commission that the provisions of this Ordinance shall become and be made a part of the City Code, which provisions may be renumbered or re-lettered and the word ordinance be changed to "section", "article", or other appropriate word to accomplish such intention.

SECTION 7. If the City Code's Tables of Contents, Supplemental History Table, or other reference portions are affected by these provisions, then changes are approved as a part of this Ordinance.

SECTION 8. This Ordinance shall become effective upon the date of its passage and adoption herein.

PASSED AND ADOPTED THIS THIRTEENTH DAY OF JULY, A.D., 2021.
(Moved: Fors., Jr. / Seconded: Menendez)
(Yeas: Menendez, Fors, Jr., Mena, Lago)
(Nays: Anderson)
(Majority: (4-1) Vote:)
(Agenda Item: F-1)


APPROVED:

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VINCE LAGO
MAYOR

ATTEST:

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

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BILLY Y. URQUIA
CITY CLERK

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MIRIAM SOLER RAMOS
CITY ATTORNEY